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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,057	08/03/2001	Michael L. Asmussen	SEDN/5313	8084

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EXAMINER

DAYE, CHELCIE L

ART UNIT	PAPER NUMBER
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2161

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/921,057

**Applicant(s)**

ASMUSSEN ET AL.

**Examiner**

Chelcie Daye

**Art Unit**

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 21-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/3/01, 7/23/02, 8/16/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is issued in response to Application filed November 25, 2003.
2. Claims 1-32 are pending. Claims 12-20 are withdrawn.

### ***Election/Restrictions***

3. Claims 12-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **with** traverse in the reply filed on March 30, 2006. Applicant argues examiner's restriction request, response to the arguments are addressed below.

### ***Priority***

The present application claims a continuation-in-part of US Patent 6,408,437, which is a continuation of US Patent 5,798,785, which is a further continuation-in-part of US Application 07/991,074. In order to receive the priority date of a continuation and a continuation-in-part certain criteria must be met.

Accordingly, an alleged continuation and continuation-in-part application should be permitted to claim the benefit of the filing date of an earlier non-provisional application if the alleged continuation-in-part application complies with the other requirements of 35 U.S.C. 120 and 37 CFR 1.78, such as: The first application and the alleged continuation-in-part application were filed with at least one common inventor.

None of the three applicants within the present application are a common inventor of neither the continuation-in-part of US Patent 6,408,437, the continuation of

US Patent 5,798,785, nor the continuation-in-part of US Application 07/991,074.

Therefore, priority will not be granted for the specific application.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 8/03/01, 7/23/02, & 3/18/03 was filed on and after the mailing date of the application on 8/03/2001. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a) because they fail to show Figs. 11a-11c, which occur on pages 6 and 7 of the specification, along with Figs. 12a-12b, which occur on page 3 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several

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views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh (US Patent No. 5,493,677) filed June 8, 1994, in view of Dudkiewicz (US Patent No. 6,651,253) filed November 16, 2001; Provisional November 16, 2000.**

Regarding Claims 1 and 21, Balogh discloses an apparatus for suggesting available content in a digital communications network, comprising:

a content metadata crawler that searches metadata related to the available content and produces a metadata list (column 3, lines 2-10 and column 10, lines 22-28, Balogh), wherein the metadata list comprises a plurality of

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metadata elements, and wherein each metadata element comprises one or more metadata fields (Fig.3, item 262, Balogh);

a suggestion keyword indexer coupled to the content metadata crawler, wherein the suggestion keyword indexer receives the metadata list and indexes the metadata elements (Fig.6; columns 8-9, lines 64-67 and 1-9, respectively, Balogh);

a suggestion database coupled to the suggestion keyword indexer that stores the indexed metadata elements (column 9, lines 9-14, Balogh); and

a suggestion database processor coupled to the content metadata crawler, the suggestion keyword indexer and the suggestion keyword database (column 4, lines 14-22, Balogh). However, Balogh is silent with respect to the suggestion database processor searching the suggestion database, based on one or more search request criteria, to produce a list of keywords to be used to suggest content. On the other hand, Dudkiewicz discloses the suggestion database processor searching the suggestion database, based on one or more search request criteria, to produce a list of keywords to be used to suggest content (column 12-13, lines 39-67 and 1-8, respectively, Dudkiewicz). Balogh and Dudkiewicz are analogous art because they are from the same field of endeavor of the identification of programming events of interest to a viewer. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Dudkiewicz's teachings into the Balogh system. A skilled artisan would have been motivated to combine as suggested by Dudkiewicz at

column 3, lines 47-56, in order to producing evaluations which reflect an actual users preferences more accurately, and further matching and ranking programs based on viewer preferences. As a result, provide intelligence in receiving and recording devices for identifying programs of interest on behalf of the user.

**8. Claims 2-3,5-11,22-23,and 26-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh (US Patent No. 5,493,677) filed June 8, 1994, in view of Dudkiewicz (US Patent No. 6,651,253) filed November 16, 2001; Provisional November 16, 2000, as applied to claim1 above, and further in view of Cappi (US Patent Application No. 20020038308) filed May 27, 1999.**

Regarding Claims 2 and 22, the combination of Balogh in view of Dudkiewicz, disclose the apparatus wherein the suggestion keyword indexer, comprises:

an extraction module that extracts and caches a value of each metadata field (column 9, lines 25-33, Dudkiewicz);

a parsing module coupled to the extraction module that parses contents of uniquely identifying metadata fields (column 9, lines 1-8 and column 10, lines 46-55, Dudkiewicz), wherein the contents of a uniquely identifying field comprises one or more word items (column 12, lines 33-37, Balogh);

a classifying module coupled to the parsing module that classifies one or more of the one or more word items (column 11, lines 11-39, Dudkiewicz); and

a comparison module coupled to the classifying module that compares one or more of the one or more word items to determine a list of related terms (columns 11-12, lines 40-67 and 1-8, respectively, Dudkiewicz). However, the combination of Balogh in view of Dudkiewicz, are silent with respect to an index matrix record builder that creates and augments an index matrix record for each of the classified word items. On the other hand, Cappi discloses an index matrix record builder that creates and augments an index matrix record for each of the classified word items ([0058-0059], lines 1-6 and 1-10, respectively, Cappi). Balogh in view of Dudkiewicz, and further in view of Cappi, are analogous art because they are from the same field of endeavor of database integration. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Cappi's teachings into the Balogh in view of Dudkiewicz system. A skilled artisan would have been motivated to combine as suggested by Cappi at [0009], lines 1-15, in order to logically integrating databases onto a global data dictionary so a user can conduct searches and retrieve data that corresponds to a data element needed. As a result, providing the most relevant information to the user first.

Regarding Claims 3 and 23, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus further comprising one or more of a dictionary database, a thesaurus database and a lexicon database ([0034], lines 1-9, Cappi), wherein the comparison module



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compares a word item to entries in one or more of the dictionary database, the thesaurus database and the lexicon database, and ([0042], lines 1-12, Cappi) wherein the list of related terms includes one or more of a dictionary definition, lexicon data, and one or more synonyms ([0059-0062], lines 1-10, 1-6, 1-12, and 1-10, respectively, Cappi).

Regarding Claims 5 and 26, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus wherein the uniquely identifying fields comprise one or more of content type, content title, date of production, rating and parental notice information, performer, artist, writer, author, plot summary, keyword list, and textual content description (Fig. 7; columns 10-11, lines 46-67 and 1-10, respectively, Dudkiewicz).

Regarding Claims 6 and 27, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus wherein the index matrix record builder comprises a vector assignment module that assigns a word item vector value for a word item, wherein the word item vector value may be used as a measure of similarity between a word item and a related term ([0103], lines 1-15, Cappi).

Regarding Claims 7 and 28, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus wherein the suggestion database processor, comprises:

a vector determination module that assigns a search term suggestion vector range to one or more of the search request criteria (columns 11-12, lines 65-67 and 1-8, Dudkiewicz); and

a vector value comparator that compares a vector value of a search term and the word item vector value to determine if the word item vector value falls within the suggestion vector range of the search term (column 12, lines 9-38, Dudkiewicz), wherein word items that fall within the suggestion vector range may be used to search for suggested content (column 16, lines 6-24, Dudkiewicz).

Regarding Claims 8 and 29, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus wherein the suggestion vector range is adjustable by a user of the apparatus (columns 14-15, lines 60-67 and 1-9, Balogh).

Regarding Claims 9,30, and 31, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus further comprising a user-defined filter, comprising:

a user history filter (column 17, lines 25-27, Dudkiewicz);

a user profile filter (column 17, lines 19-25, Dudkiewicz); and

an approved content access filter, wherein the suggestion database processor processes search results from the suggestion database using the user-defined filter to produce the list of suggested content (column 14, lines 8-17, Dudkiewicz).

Regarding Claims 10 and 32, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus further comprising a ranking module, wherein the ranking module ranks content in the list of suggested content (columns 22-23, lines 65-67 and 1-16, Dudkiewicz).

Regarding Claims 11 and 33, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus where in the ranking module ranks the content according to one or more of a user historical analysis report and similarities to previously accessed content by the user (column 30, lines 24-55, Dudkiewicz).

**9. Claims 4,24,and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balogh (US Patent No. 5,493,677) filed June 8, 1994, in view of Dudkiewicz (US Patent No. 6,651,253) filed November 16, 2001; Provisional November 16, 2000 and further in view of Cappi (US Patent Application No. 20020038308) filed May 27, 1999 and further in view of Karaali (US Patent No. 6,182,028) filed November 7, 1997.**

Regarding Claims 4, 24, and 25, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, disclose the apparatus wherein the classifying module comprises one or more computational linguistics tools (column 12, lines 57-64, Balogh), wherein the one or more computational linguistic tools determine part-of-speech data of a word item (column 8, lines 1-22, Balogh), and wherein the index matrix record builder adds the part-of-speech data to the index matrix record for the word item (column 6, lines 6-27, Balogh). However, the combination of Balogh in view of Dudkiewicz, and further in view of Cappi, are silent with respect to the linguistic tool including a rule-based part-of-speech tagging algorithm and a stochastic part-of-speech tagging algorithm. On the other hand, Karaali discloses the linguistic tool including a rule-based part-of-speech tagging algorithm and a stochastic part-of-speech tagging algorithm (column 3, lines 3-14, Karaali). Balogh in view of Dudkiewicz, further in view of Cappi, and further in view of Karaali are analogous art because they are from the same field of endeavor of relating part-of-speech. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Karaali's teachings into the Balogh in view of Dudkiewicz, and further in view of Cappi system. A skilled artisan would have been motivated to combine as suggested by Karaali at column 1, lines 11-21, in order to assign the correct part of speech to each word in a sentence, based on the word's usage. As a result, disclosing the accurate recognition of text.

***Response to Arguments***

Applicant's election with traverse of Group I (claims 1-11 and 21-33) in the reply filed on March 30, 2006 is acknowledged. The traversal is on the ground(s) that "Claim 12 does not generate a database; rather, Claim 12 performs the step of comparing the search request to a database of indexed metadata elements. This is not found persuasive because Claim 1 discloses a metadata crawler, which searches for metadata related to available content and lists the produced metadata. Claim 1 further indexes the metadata list and stores the list within a database, in order to produce a list of content for suggestions. However, Claim 12 discloses receiving a search request and comparing the request to a database of indexed metadata, and further filtering and ranking the metadata in order to return suggested content. The limitations of Claim 1 encompass the content crawler, which is able to search not only databases but also web servers. Also, Claim 12 requires filtering and ranking of metadata, which are not required elements of Claim 1. Therefore, placing burden on the examiner to search multiple classification areas.

The requirement is still deemed proper and is therefore made FINAL.

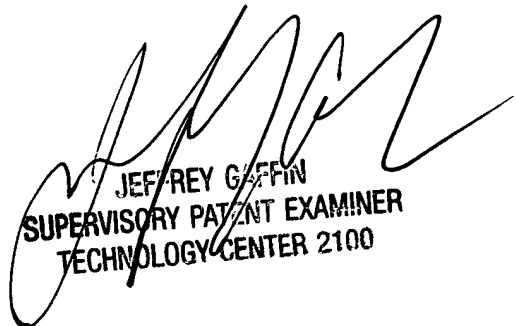
***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner  
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June 20, 2006

  
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